

JS 44 (Rev. 11/04)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)  
AUSA Susan B. Gray  
450 Golden Gate Avenue, 9th Floor  
San Francisco, CA 94102  
415-436-7324

## DEFENDANTS

APPROXIMATELY \$99,900 IN UNITED STATES CURRENCY

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.  
Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                            |   |                            |                            |
|---|---------------------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                                   | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):

TITLE 21, UNITED STATES CODE, SECTION 881 (a)(6)

Brief description of cause:

Drug Related Forfeiture

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

## DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

2/26/08

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

**ORIGINAL**

JOSEPH P. RUSSONIELLO (44332)  
United States Attorney

BRIAN J. STRETCH (CSBN 163937)  
Chief, Criminal Division

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Assistant United States Attorney

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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
Plaintiff,

v.

APPROXIMATELY \$99,900 IN UNITED  
STATES CURRENCY,

Defendant.

CV No. 08 1161

COMPLAINT FOR FORFEITURE

In this in rem forfeiture action, the United States alleges:

**JURISDICTION**

1. This Court has jurisdiction under Title 28, United States Code, Sections 1345 and 1355 and Title 21, United States Code, Section 881.

**PARTIES**

2. Plaintiff is the United States of America.

3. The in rem defendant is described as approximately \$99,900 in United States currency.

The defendant is currently in the custody of the United States Marshals Service in the Northern District of California. The defendant currency was seized during the execution of a

FILED  
FEB 27 2008  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**EDL**

1 search warrant at the residence of Michael Munoz following his arrest on July 18, 2006.

2 4. There is probable cause to believe that the in rem defendant funds constitute  
3 proceeds of drug trafficking and/or were used to facilitate the sale and distribution of controlled  
4 substances and are thus subject to forfeiture, pursuant to Title 21, United States Code, Section  
5 881(a)(6).

6 **VENUE**

7 5. Venue lies in the Northern District of California, pursuant to Title 28, United  
8 States Code §§ 1355(b) and 1395, as acts giving rise to this in rem action occurred in this district  
9 and the defendant funds are located in this district.

10 **INTRADISTRICT ASSIGNMENT**

11 6. This matter arises in Sonoma County because a substantial part of the events  
12 which give rise to the plaintiff's claims occurred in that county. Assignment in San Francisco is  
13 proper.

14 **FACTS**

15 7. Plaintiff incorporates by reference the allegations of paragraphs one through six  
16 as though fully set forth herein.

17 8. On July 18, 2006, Michael Munoz (hereinafter "Munoz") spoke via telephone  
18 with an individual, who unbeknown to him was a law enforcement confidential informant  
19 (hereafter "CI"). Munoz agreed to sell the CI approximately two ounces of black tar heroin.  
20 Munoz did not indicate that he would have any problem in obtaining two ounces of black tar  
21 heroin for delivery that same day. The CI previously had purchased black tar heroin from Munoz  
22 on numerous occasions. They agreed to meet later that day in Kenwood, California. Munoz  
23 instructed the CI to be sure he brought the money.

24 9. After the telephone negotiations, officers from the Sonoma County Sheriff's  
25 Department observed a silver BMW driving in excess of the posted fifty mile an hour speed limit.  
26 The officers, who were in a marked police vehicle, were traveling at about seventy miles per hour  
27 and did not gain on the vehicle when they attempted to follow it.

28 10. The officers activated their lights and attempted to stop the car. The driver, later

1 identified as Michael Munoz, slowed, but did not stop. When Munoz failed to stop, the officers  
2 activated all of the emergency lighting and the siren on their vehicle. Munoz increased his speed  
3 to approximately eighty miles per hour and crossed the double yellow lines into on-coming traffic  
4 in order to pass other vehicles. At one point in the high speed chase, several drivers were forced  
5 to take evasive action to prevent a collision with Munoz.

6 11. During the pursuit, the officers briefly lost sight of Munoz in the 8300 block of  
7 Highway 12. Prior to losing sight of Munoz, the officers had not seen Munoz throw anything  
8 from the car. Shortly thereafter, Munoz stopped his car. He was placed under arrest for a  
9 violation of California Vehicle Code §2800.2(a): evading a peace officer with wanton disregard.  
10 Following his arrest Munoz was advised of his rights and made the following statements: He did  
11 not stop for police because he had recently purchased the car, did not want a ticket, and wanted to  
12 see if he could out run the officers, the only reason he stopped was because he had damaged his  
13 clutch.

14 12. When the officers explained that Munoz had put numerous other drivers at risk,  
15 Munoz stated that he knew exactly what he was doing, but his driving had not been a threat to  
16 anyone since no one had been hurt. He also told officers his address was 714 5<sup>th</sup> Street East,  
17 Sonoma, California.

18 13. After Munoz was arrested, officers went back to the 8300 block of Highway 12  
19 where they had lost sight of Munoz during the pursuit. They found approximately two ounces of  
20 black tar heroin by the side of the highway.

21 14. On July 18, 2008, members of the Sonoma County Narcotics Task Force assisted by  
22 the Mendocino Major Crimes Task Force obtained and executed a state search warrant on  
23 Munoz's residence, 714 5<sup>th</sup> Street East, Sonoma, California.

24 15. A trained narcotics canine, "Caine", was brought to the scene to conduct a room to  
25 room search. Caine alerted to a bed side table in Munoz's bedroom, which was found to contain a  
26 small quantity of marijuana. Caine also alerted to a locked safe located in the bedroom closet.  
27 During a search of the safe, officers found \$7,900 in United States currency. A digital scale and a  
28 plastic gram scale were located on a shelf in Munoz's closet.



16. During a search of the garage Caine alerted to a small locked safe located in a lower garage cabinet. Officers discovered \$92,000 in United States currency in the safe.

17. The currency seized at Munoz's residence consisted of the following denominations: bedroom-79 x \$100 = \$7,900; the garage safe-98 x \$50 = \$4900, 871 x \$100 = \$87,100. The bundles of money found in the garage safe were sealed within white envelopes with various handwritten notations on them. Based upon their training and experience the agents knew the packaging and denominations of the money was consistent with currency used for, or from, the sale of illegal controlled substances

### FIRST CLAIM FOR RELIEF

**21 U.S.C. § 881(a)(6)**

18. Plaintiff incorporates by reference the allegations of paragraphs one through seventeen as though fully set forth.

19. Title 21, United States Code, Section 881(a)(6) provides, in part, for the forfeiture of all monies or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, all proceeds traceable to such an exchange, and all monies used or intended to be used to facilitate the distribution and possession with the intent to distribute a controlled substance, including violations of Title 21, United States Code, Sections 841 and 846.

20. In light of the foregoing, and considering the totality of the circumstances, there is probable cause to believe that the defendant currency represents moneys furnished or intended to be furnished to another person in exchange for a controlled substance, constitutes proceeds derived from such an exchange, and was used or intended to be used to facilitate an offense, in violation of Title 21, United States Code, Sections 841(a) and 846, and thus subject to forfeiture under Title 21, United States Code, Section 881(a)(6).

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VI

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**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays that due process issue to enforce the forfeiture of the defendant property, that due notice be given to all interested parties to appear and show cause why the forfeiture should not be decreed, that judgment of forfeiture be entered against said property, and that Plaintiff be awarded such relief as may be proper and just.

Dated: February 26, 2008

Respectfully submitted,



SUSAN B. GRAY  
Assistant United States Attorney

1 STATE AND NORTHERN DISTRICT OF CALIFORNIA }  
2 CITY OF WINDSOR AND COUNTY OF SONOMA }

VERIFICATION

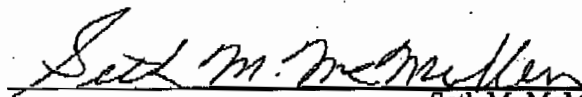
3  
4 I, Seth M. McMullen, state as follows:

5 1. I am a Special Agent for the Drug Enforcement Administration. I am familiar  
6 with the facts in the investigation leading to the filing of this Complaint for Forfeiture.

7 2. I have read the Complaint for Forfeiture and based upon my participation in the  
8 investigation, review of relevant investigative reports, review of documentary evidence, and  
9 discussions with other persons involved in the investigation, I believe that the allegations  
10 contained therein are true.

11 I declare under penalty of perjury that the foregoing is true and correct to the best of my  
12 knowledge.

13  
14 Executed this 26<sup>TH</sup> day of February, 2008, Windsor, California.

15  
16 

17 Seth M. McMullen  
18 Special Agent  
19 Drug Enforcement Administration  
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